

Message Text

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ORIGIN AF-07

INFO OCT-01 ISO-00 AID-05 L-01 OPIC-03 EB-04 IGA-01 COME-00

TRSE-00 CIAE-00 INR-05 NSAE-00 RSC-01 /028 R

DRAFTED BY AF/E:HHJANIN:NB
APPROVED BY AF: JJBLAKE
AID/W:JKNOLL/FSCORDATO (DRAFT)
L/AF:BKHUFFMAN (DRAFT)
AID/GC:TBORK (DRAFT)
OPIC:DGREGG (DRAFT)
EB:DSTEBBING (DRAFT)
AF/E:RSBARRETT

----- 126705

P R 052202Z NOV 74
FM SECSTATE WASHDC
TO AMEMBASSY LUSAKA PRIORITY
INFO AMEMBASSY NAIROBI

C O N F I D E N T I A L STATE 243600

E.O. 11652: GDS
TAGS: EFIN, ZA
SUBJECT: TAW AND AID LOAN
NAIROBI FOR REDSO
REF: (A) STATE 241014, (B) STATE 241646
LUSAKA ALSO FOR ASST. SECRETARY EASUM
1. OUR REVIEW OF TAW/GRZ DISPUTE AND POSSIBLE USE OF AID
LOAN FOR GM TRUCKS IS NOT YET COMPLETE. HOWEVER, WE HAVE
REACHED ONE CLEAR FINDING: IT IS ESSENTIAL THAT HENCEFORTH
THESE TWO ISSUES (DISPUTE AND LOAN) BE KEPT TOTALLY SEPARATE
AND BE SO TREATED IN DISCUSSIONS WITH TAW AND GRZ.

2. THIS FINDING DERIVES FROM FACT THAT DIRECT OR INDIRECT
USE OF LOAN EITHER AS PART OF TAW/GRZ SETTLEMENT PACKAGE
OR AS MEANS TO MOVE PARTIES CLOSER TO SETTLEMENT WOULD
PRESENT SERIOUS LEGAL AND POLICY PROBLEMS FOR US. THUS
LINKING OF DISPUTE AND LOAN MUST BE AVOIDED, REGARDLESS OF
QUESTION OF POSSIBLE USES FOR LOAN.

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3. ASSUMING LOAN IS KEPT SEPARATE FROM DISPUTE, QUESTION ARISES OF WHETHER USE OF LOAN FOR TRUCKS POSES ANY LEGAL DIFFICULTIES. IN JUDGEMENT OF STATE/AID LEGAL ADVISERS, USE OF LOAN TO BUY GM TRUCKS WOULD NOT RPT NOT VIOLATE SECTION 620(G) OF FOREIGN ASSISTANCE ACT (FAA), WHICH PROHIBITS USE OF AID FUNDS TO COMPENSATE AMCITS FOR EXPROPRIATION. HOWEVER, QUESTION IS CLOSE AND AN OPPOSITE CONCLUSION COULD BE ARGU BASED ON LEGISLATIVE HISTORY OF FAA.

4. IN A RECENT DEVELOPMENT, INSPECTOR GENERAL OF FOREIGN ASSISTANCE (IGA) HAS EXPRESSED CONCERN RE USE OF LOAN FOR TRUCKS ON GROUNDS THAT SUCH ACTION COULD BE INTERPRETED AS US EFFORT TO BAIL GRZ OUT OF TROUBLES OF ITS OWN MAKING (CANCELLATION OF TAW CONTRACT) BY PERMITTING IT TO USE LOAN FOR TRUCKS.

5. RE DORON SIMULATOR, AS NOTED REF (B) LETTER OF CREDIT HAS BEEN ISSUED IN FAVOR OF DORON. USE OF AID LOAN FOR SIMULATOR IS THUS FAIT ACCOMPLI. WE INTEND AUTHORIZE REDSO NAIROBI AMEND LETTER OF COMMITMENT TO PERMIT PROGRESS PAYMENTS TO DORON BUT NOT RPT NOT BEFORE WE HAVE CHANCE TO DISCUSS MATTER WITH WOOD AFTER HIS RETURN TO US. REQUEST EMBASSY ADVISE WOOD'S TRAVEL PLANS IF KNOWN.

6. WE UNDERSTAND FROM TAW NEW YORK THAT LUSAKA NEGOTIATIONS HAVE BEEN UNSUCCESSFUL AND WE EXPECT WOOD ET AL WILL BE RETURNING NEW YORK FAIRLY SOON. GIVEN APPARENT GRZ DECISION PURCHASE 100 GM TRUCKS IN BALTIMORE, WE WONDER HOW GRZ INTENDS FINANCE THEM. ANY INFORMATION YOU HAVE ON THIS WOULD BE WELCOME. IN VIEW OF FACT THAT USE OF LOAN FOR TRUCKS IS STILL AN UNDECIDED ISSUE, DEPT/AID SHOULD BE ADVISED SOONEST IF EMBASSY BELIEVES GRZ HOPES TO USE LOAN FOR TRUCKS.

7. OPIC HOPES THAT GRZ CAN BUY TRUCKS WITH OWN FUNDS RATHER THAN WITH AID LOAN, IN VIEW OF AID 50/50 US BOTTOMS RULE AND SENSITIVE NATURE OF THE TAW PROBLEM. INGERSOLL

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